

### **REMARKS**

Applicant respectfully requests reconsideration and allowance of the subject application.

The Examiner has made a requirement for restriction between the following groups:

- GROUP I:** Claims 1-6, drawn to a method of enabling one or more participants to access online general ledger data;
- GROUP II:** Claims 7-13, drawn to a method of facilitating creation and storage of a reconciliation profile;
- GROUP III:** Claims 14-18, 27-32, and 67-70, drawn to a method of forming a reconciliation document;
- GROUP IV:** Claims 19-26, drawn to a method of creating a reconciliation item;
- GROUP V:** Claims 33-44, drawn to a hosting system for hosting one or more clients;
- GROUP VI:** Claim 45-48, drawn to a computing system;
- GROUP VII:** Claims 49-55, drawn to computer-readable media;
- GROUP VIII:** Claims 56-58, drawn to an application program
- GROUP IX:** Claims 59-66, drawn to an electronic reconciliation profile; and
- GROUP X:** Claims 71-76, drawn to a user interface for an account reconciliation tool.

At the outset, the Applicant notes that the Examiner has failed to provide the fundamental information that establishes that there would be a burden to examine the claims of the Instant Application. In particular, the Examiner has failed to show that the claims have separate classification status. MPEP 808.02 explicitly states that this is a requirement for establishing the basis for a proper restriction requirement. Applicant will request an audience with the Examiner and their supervisor if a compromise restriction requirement is not reached in response hereto. The Applicant's compromise suggestion is provided hereinbelow.

In order to comply with the Examiner's restriction requirement, Applicant provisionally elects to prosecute **Group V**, directed to claims 33-34, for prosecution in the present application. Applicant reserves the right to file a divisional application(s) directed to the non-elected claims at a later date, if so desired.

Applicant also requests, should the Examiner determine that the claims of the present application are restrictable, that the Examiner consider the compromise position of examining the claims of the following group, with those claims not specified remaining restricted from examination at this stage.

A new group (**Group New**) including claims 33-58. Effectively, the **Group New** includes each of claims specified in Groups V-VIII indicated hereinabove.

As set forth in M.P.E.P. § 803, the Examiner must examine an application on the merits if the examination of the entire application can be made without serious burden. As discussed above, the Examiner has not established said serious burden. If the Examiner does find the instant application requires restriction of the claims, the Applicant respectfully submits that the **Group New** may be examined without serious burden.

In accordance with the above, Applicant respectfully submits, should the Examiner determine a restriction is proper in the instant application, that the groupings of the claims should be revised in accordance with the comments made above.

If the Examiner agrees with the Applicant's proposed new Groups, election of **Group New**, is requested.

The Examiner's requirement for restriction is respectfully traversed for the reasons set forth below.

Applicant respectfully submits that the Examiner has failed to meet the required burden of showing that the groups of claims are independent and distinct, as required by law. 35 U.S.C. § 121 specifically states that the Commissioner may require the application to be restricted if it contains two or more "independent and distinct" inventions claimed in one application. 37 C.F.R. §§ 1.141 and 1.142 further repeat the language that the two or more inventions must be "independent and distinct".

M.P.E.P. § 802.01 provides specific definitions of the meaning of the terms "independent" and "distinct". M.P.E.P. § 802.01 states that the terms "independent" and "distinct" do not mean the same thing, but in fact have very different meanings. The term "independent", as set forth in M.P.E.P. § 802.01, means that "there is no disclosed relationship between the two or more subjects disclosed, that is, they are unconnected in design, operation, or effect". The term "distinct" means that "two or more subjects as disclosed are related, for example, as combination and part (sub-combination) thereof, ... and are patentable over each other".

The Examiner has set forth that inventions are "distinct" from one another by arguing the inventions of **Groups I-X** are related as combination and sub-combination, and the combination as claimed does not require the particulars of the sub-combination and the sub-combination has utility by itself. However, no other reason why the inventions are unrelated, or are incapable of use together, has been set forth. Thus, the Examiner has not met the required burden of proving that the groupings are "independent" as required by the United States Code, the Code of Federal Regulations, and the Manual of Patent Examining Procedure.

Applicant respectfully submits that any policy set forth in the M.P.E.P. that conflicts with the requirements for both independence and distinctness is superseded by the directives of the United States Code and the Code of Federal Regulations, which specifically require both independence and distinctness between properly restrictable groupings. Accordingly, Applicant respectfully

submits that the requirement for restriction is improper, and respectfully requests that the requirement for restriction be withdrawn.

In addition to the above, M.P.E.P. § 808.01 states that inventions are independent "where they are not connected in design, operation, or effect under the disclosure of the particular application under consideration" and that "[t]his situation, except for species, is but rarely present, since persons will seldom file an application containing disclosures of independent things." (emphasis added). M.P.E.P. § 806.04 cites the intended meaning of independent inventions by citing specific examples of independence, stating "[a]n article of apparel such as a shoe, and a locomotive bearing would be an example. A process of painting a house and a process of boring a well would be a second example." Further, M.P.E.P. § 806.04 states that "[w]here the two inventions are process and apparatus, and the apparatus cannot be used to practice the process or any part thereof, they are independent." The Examiner has not provided any reason why the current claimed inventions are unrelated, or are incapable of use together.

Applicant respectfully submits that the inventions of the instant application are connected in design, operation, or effect. Therefore, Applicant respectfully submits that the instant application is not properly restrictable, since the Examiner has not shown that the inventions are "independent" as required by the U.S. Statute.

In view of the above remarks, reconsideration of the requirement for restriction and an action on all of the claims in the application are respectfully requested.

Applicant believes that the pending claims are allowable and the application is in condition for allowance. Therefore, a Notice of Allowance is respectfully requested. Should the Examiner have any further issues regarding this application, the Examiner is requested to contact the undersigned attorney for the Applicant at the email address provided below.

Respectfully Submitted,

Lee & Hayes, PLLC

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